IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 13552 of 2007(L)

PETITIONER:

V.SADASIVAN, AGED 55 YEARS,
KOCHUTHARAYIL HOUSE, CHINGOLY VILLAGE,
KARTHIKAPPALLY THALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI.P.JACOB VARGHESE
SRI.VARUGHESE M EASO

RESPONDENTS:
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1. SUB INSPECTOR OF POLICE,
HARIPPADU POLICE STATION, HARIPPADU CIRCLE,
ALAPPUZHA DISTRICT.

2. CIRCLE INSPECTOR OF POLICE,
HARIPPADU CIRCLE, ALAPPUZHA DISTRICT.

3. SUPERINTENDENT OF POLICE,
ALAPPUZHA DISTRICT.

4. MARIYAMMA ISAC, AGED ABOUT 60 YEARS,
W/O.LATE ISSAC, KUMMINIYIL HOUSE, MANKUZHY CHURCH
ROAD, KARUVATTA P.O., HARIPPADU,
ALAPPUZHA DISTRICT.

5. SHIBU SHAJI CHERIYAN, AGED ABOUT 38
YEARS, S/O.LATE ISSAC, KUMMINIYIL HOUSE,
MANKUZHY CHURCH ROAD, KARUVATTA P.O.,
HARIPPADU, ALAPPUZHA DISTRICT.

6. JOE SHAJI CHERIYAN, AGED ABOUT 31 YEARS,
S/O.LATE ISSAC, ANJILIVELIL HOUSE,
KARUVATTA P.O., HARIPPADU, ALAPPUZHA DISTRICT.

BY ADV. SRI.TOM JOSE (PADINJAREKARA)
SRI.S.SUBHASH CHAND
BY GOVT. PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COY OF THE RENT DEED EXECUTED BY PETITIONER AND SIXTH RESPONDENT DT. 27.03.2007.

EXT.P2: TRUE COPY OF THE WILL EXECUTED IN FAVOUR OF SIXTH RESPONDENT BY LATE ISSAC CHERIAN DT. 25.2.2003.

EXT.P3: TRUE COPY OF COMPLAINT DT. 29.3.2007 FILED BY PETITIONER BEFORE 1ST RESPONDENT.

EXT.P5: TRUE COPY OF RECEIPT ISSUED BY 2ND RESPONDENT ON EXT.P4 COMPLAINT DT. 18.4.07

// TRUE COPY //

P.S. to JUDGE.

P.R. RAMAN & K. HEMA, JJ.

W.P.(C).No.13552 of 2007

Dated this the 31st day of May, 2007.

JUDGMENT

Raman, J.

Petitioner approached this Court by filing the above writ petition alleging that on 28.3.2007, respondents 4 and 5, who are the mother and elder brother of 6th respondent, unlawfully trespassed into petitioner's home and demanded him to vacate the premises claiming that they are the lawful owners of the property. The next day, 6th respondent alleged to have come to petitioner's house and raised a claim based on a Will said to have been executed by deceased father. It is further stated in the petition that respondents 4 and 5 avail every opportunity to threaten the petitioner and his wife to vacate the house and that they have trespassed into the house on 18.4.2007 with deadly weapon and several complaints have been filed, but no crime is registered.

2. Respondents 4 and 5 have entered appearance and filed counter-affidavit denying the allegations contained in the writ petition. The 4th respondent mother would contend that she has a rightful claim over the property or the residential building in question and has a right of residence therein. On the other hand, petitioner would contend that as per a Will executed by father, the residential building in question absolutely belongs to the 6th respondent, who in turn, after the death of the father has let out to

petitioner. Obviously, the dispute between the parties regarding their claim or right over the residential building in question cannot be decided in a petition filed under Article 226 of the Constitution of India, as it is only summary proceedings. Parties are left open to agitate their rights in appropriate civil court. This Court has merely directed the police authorities to see that there is no law and order situation created by any of the parties. It is the responsibility of the State to see that no person takes law into his own hands. That direction will continue without prejudice to the rival claim and contentions raised by the parties relating to the immovable property to be decided by a civil court and it is open to the parties to take recourse to such remedies.

Subject to the above direction, the Writ Petition is closed.

P.R.RAMAN, JUDGE.

K. HEMA, JUDGE.

Krs.